

**BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS**  
**IN MEDICINE AND SURGERY**

IN THE MATTER OF:	)	Case No.: 3883M
	)	
<b>BRENT GEAR,</b>	)	<b>FINDINGS OF FACT, CONCLUSIONS</b>
Holder of License No. 3314	)	<b>OF LAW AND ORDER FOR DECREE OF</b>
	)	<b>CENSURE</b>

For the practice of osteopathic medicine in the  
State of Arizona

On November 21, 2006, the AZ Board of Osteopathic Examiners (hereafter "Board") received information from the National Practitioner Data Bank that reported a medical malpractice settlement. The databank report attributed acts and omissions on behalf of Brent Gear, D.O. (hereafter known as Respondent") stating specific allegations of: "Failure to diagnose" and "Failure to Order Appropriate Medication."

On April 16, 2007, the Board opened Case# 3883 in order to investigate the allegations contained within the medical malpractice lawsuit.

On April 20, 2007 the Board notified Respondent of this complaint and requested a response to the allegations contained therein.

On May 14, 2007, the Respondent through his attorney provided an answer to the Board and included copies of pertinent records.

On November 10, 2007, the Board conducted its initial review of this and voted to refer this matter to an Investigative Hearing.

On November 23, 2007 the Board invited the Respondent to an investigative hearing. The Respondent appeared and participated in the proceeding. The Respondent was not represented by legal counsel.

After hearing testimony and considering the documents and evidence submitted, the

1 Board voted to enter the following Findings of Fact and Conclusions of Law, and Order for  
2 Decree of Censure.

### 3 JURISDICTIONAL STATEMENTS

4 1. The Board is empowered, pursuant to A.R.S. § 32-1800 et seq., to regulate the  
5 practice of osteopathic medicine in the State of Arizona, and the conduct of the persons licensed,  
6 registered, or permitted to practice osteopathic medicine in the State of Arizona.

7 2. Respondent is the holder of License No. 3314 issued by the Board for the practice  
8 of osteopathic medicine in the State of Arizona.

### 9 FINDINGS OF FACT

10 1. On March 19, 2004 a 19 year old female patient presented to the Casa Grande  
11 Regional Medical Center with a chief complaint of fever and diarrhea for the past two days (2)  
12 and vomiting within the last 24 hours. The Respondent was responsible for her care up until the  
13 time of her discharge.

14 2. Dr. Gear discharged the patient at approximately 3:35AM in the next morning.

15 3. The Board felt that the patient should have been admitted to the hospital because  
16 the patient met all the criteria for admission based upon the intensity of service and the severity  
17 of illness criteria which had been in place since 1988. Specifically, the patient was hypotensive,  
18 she had a temperature of 104, and she had tachycardia at the same time.

19 4. The Board also felt that addition studies should have been completed; such as a  
20 CNSD for O&P, a gram stain and empiric antibiotics, or rule out toxic shock.

21 5. The board felt that this patient received inadequate emergency room care for the  
22 above reasons which may have led to the patient death.

### 23 CONCLUSIONS OF LAW

24 1. The conduct described in Findings of Fact 1 through 5 herein constitutes  
25 unprofessional conduct as defined at A.R.S. § 32-1854 (6), which states, "Engaging in the

1 practice of medicine in a manner that harms or may harm a patient or that the Board determines  
2 falls below the community standard.”

3 2. The conduct described in Findings of Fact 1 through 5 herein constitutes  
4 unprofessional conduct as defined at A.R.S. § 32-1854 (38), which states, “Any conduct or  
5 practice that endangers a patient’s or the public’s health or may reasonably be expected to do  
6 so.”

7 **ORDER**

8 Pursuant to the authority vested in the Board,

9 1. **IT IS HEREBY ORDERED** that Brent Gear, D.O., Holder of osteopathic  
10 medical License number 3314, is issued a **DECREE OF CENSURE** pursuant to the provisions  
11 of A.R.S. § 32-1855 (E)(4).

12 2. **IT IS FURTHER ORDERED** that Brent Gear, D.O., Holder of osteopathic  
13 medical License number 3314, be placed on **PROBATION** for a period of **6 MONTHS** during  
14 which time he shall complete the following term:

15 A. Dr. Gear shall obtain at least **TWENTY (20) HOURS OF**  
16 **CONTINUING MEDICAL EDUCATION** in the area of treatment and resuscitation of  
17 a febrile patient. The CME shall be in addition to that normally required for renewal of a  
18 license, shall be pre-approved by the executive director and shall be completed within six  
19 months of the effective date of this Order.



ISSUED THIS 29TH DAY OF FEBRUARY 2008.

ARIZONA BOARD OF OSTEOPATHIC EXAMINERS

By: \_\_\_\_\_

Jack Confer, Executive Director

1                                    **NOTICE OF RIGHT TO REQUEST REVIEW OR REHEARING**

2            You have the right to request a rehearing or review of this matter pursuant to A.R.S. § 41-  
3 1092.09. The request for rehearing or review must be filed with the Arizona Board of  
4 Osteopathic Examiners within thirty (30) days. If you request a review or rehearing, you must  
5 base your request on at least one of the eight grounds for review or rehearing that are allowed  
6 under A.A.C. R4-22-106(D). Failure to file a motion for rehearing or review within 30 days has  
7 the effect of prohibiting you from seeking judicial review of the Board's decision in the AZ  
8 Courts.

9  
10 Original "Findings of Fact, Conclusions  
11 of Law and Order for Decree of Censure"  
12 filed this 12<sup>th</sup> day of February, 2008 with the:

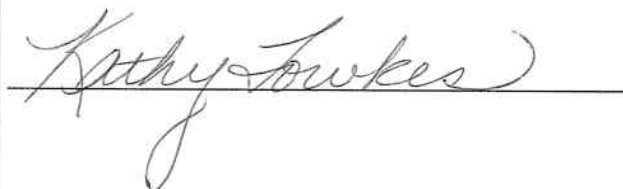
13  
14 Arizona Board of Osteopathic Examiners  
15 In Medicine and Surgery  
16 9535 East Doubletree Ranch Road  
17 Scottsdale AZ 85258-5539

18  
19 Copy of the foregoing "Findings of Fact,  
20 Conclusions of Law and Order for Decree  
21 of Censure" send by certified mail, return  
22 receipt requested this 12<sup>th</sup> day of February, 2008 to:

23  
24 Brent Gear, D.O.  
25 3340 E Jacaranda Circle  
Mesa, AZ 85213

Copies of the foregoing "Findings of Fact,  
Conclusions of Law and Order for Decree  
of Censure" sent via regular mail this 12<sup>th</sup>  
day of February, 2008 to:

Blair Driggs, AAG  
Office of the Attorney General CIV/LES  
1275 West Washington  
Phoenix AZ 85007

23  
24   
25